

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 3RD OCTOBER 2006 / 11TH ASWINA 1928

WP(C).No. 33844 of 2004(D)

PETITIONER:

MAMACHAN T.GEORGE,
VALIAKUNNEL, OLIAPPURAM P.O., ERNAKULAM DISTRICT.

BY ADV. SRI.R.RAJASEKHARAN PILLAI
SMT.SABINA JAYAN
SRI.M.S.NISHAD

RESPONDENTS:

1. MANAGER/CHAIRMAN,
ST. JOHN'S H.S.S. AND T.T.I., VADAKARA,
KOOHATTUKULAM.
2. DIRECTOR OF HIGHER SECONDARY EDUCATION,
HOUSING BOARD BLDG., SHANTHI NAGAR,
THIRUVANANTHAPURAM-1.

BY ADV. SRI.K.G.PAVITHRAN
GOVERNMENT PLEADER SMT.M.R.SREELATHA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03/10/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

EXT.P1: TRUE COPY OF LISYT PUBLISHED BY R1.

EXT.P2: TRUE COPY OF PROCEEDINGS DT. 10/3/2003.

EXT.P3: TRUE COPY OF ORDER DT. 2/6/2003.

EXT.P4: TRUE COPY OF CIRCULAR DT. 10/7/2003.

EXT.P5: TRUE COPY OF JUDGMENT IN WP.33809/2003..

EXT.P6: TRUE COPY FO JUDGMENT IN WP.14833/2004.

EXT.P7: TRUE COPY OF IA.613/2004 IN OS.11/81.

EXT.P8: TRUE COPY FO ORDER IN IA.613/04 IN OS.11/81.

Dated this the 3rd day of October, 2006.

J U D G M E N T

Is Ext.P8 order passed by the Additional District Judge, Ernakulam in IA.613/2004 in OS.11/1981 liable to be quashed?

2. The following relevant facts may have to be briefly noticed, in order to consider the above question.

3. Petitioner had applied for the post of Attender in St.John's Higher Secondary School and Teachers' Training Institute, Vadakara at Koothattukulam in response to a notification issued in 2000 in this regard. It is not in dispute that Ext.P1 ranked list was published by the management after completing the selection process. Admittedly the interview was held on March 2, 2000 and the list was published shortly thereafter.

4. It is admitted by the petitioner that one Shine Skaria had been assigned first rank in Ext.P1, since he had obtained 56 ½ marks. Shaji Chacko who had obtained 42.5 marks was placed at rank No.2 . Petitioner and one Joly Nice had obtained 38 marks each. One Joby M John had obtained 37 marks. It is contended by the petitioner that Shnie Skaria (rank No.1) was appointed as Attender by order dated January 10, 2001. But his appointment was not approved since it was only for a period of 55 days. It is further contended by him that Shine Skaria was later appointed as a Part Time Menial in the school as he was satisfied with that post. The case of the petitioner is that this appointment as Part Time Menial was with effect from March 11, 2003 as could be seen from Ext.P2.

5. But interestingly the grievance of the petitioner relates to the refusal of the management to appoint him to one of the two posts of Laboratory Assistant in the Higher Secondary Section of the school, which according to him, were sanctioned by the Department. The order passed by the Director has been produced by the petitioner as Ext.P3.

6. It appears that dispute was pending in the Educational Agency in respect of management of the schools. The Manager appointed by the District Court, Ernakulam in OS.11/1981 was in charge of the management of the school. To make a long story short, in a writ petition filed before this Court, the petitioner was directed to move an application before the District Court in the above suit if he had any grievance that he was denied appointment by the Manager as Laboratory Assistant. Ext.P8 order was passed by the District Court pursuant to the above direction issued by this court.

7. It was noticed by the learned District Judge that Ext.P1 ranked list was in respect of Attenders and not for the post of Laboratory Assistant. More importantly, Ext.P1 list was published in the year 2000, whereas admittedly two posts of Laboratory Assistant were sanctioned in the school in June 2003. That apart, the only one vacancy of Attender which was available in the school was filled up by the management from Ext.P1 ranked list. Sri.Shine Skaria who was rank No.1 in the list was appointed with effect from January 1, 2001 in the available single vacancy. Since his appointment was not approved, as it was only for less than 2 months, he opted for the post of Part Time Menial and he was given that post. Thereafter no appointment was made to the post of Attender.

8. There would have been room for grievance to the petitioner

if only anyone below him in the ranked list had been appointed overlooking his rank position. That was not done by the management. The learned District Judge had noticed that no post of attender was available in the school and even if such a vacancy arose, Rank No.2 in the list ought to have been appointed. The application by the petitioner before the District Court was moved in the year 2004 and as noticed already, Ext.P1 ranked list was prepared in the year 2000 for the single vacancy of Attender. Further, petitioner did not have a case that Ext.P1 ranked list was prepared for the post of Laboratory Assistants . All the above aspects were considered by the learned District Judge while passing Ext.P8 order.

9. Having carefully considered the entire materials on record, I do not find any merit in the contentions raised by the petitioner.

10. During the pendency of the writ petition, petitioner had filed IA.11182/2006 with a prayer to stay the approval of appointment of three employees in the school. The three employees named in the affidavit had not been impleaded in this writ petition. Further, the prayer made by the petitioner in this application is totally misconceived in the facts and circumstances of this writ petition. Therefore I have dismissed the said IA.

The Writ Petition is wholly without any merit and therefore it is liable to be dismissed. I do so.

A.K. Basheer
Judge.

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